

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF MISSOURI  
SOUTHEASTERN DIVISION

GARY KESLER )  
 )  
REBECCA SUE KESLER )  
 )  
ERIC KESLER )  
 )  
CHAD KESLER )  
 )  
DONNA SUE TAYLOR, AS )  
TRUSTEE OF THE GARY LEE & )  
REBECCA SUE KESLER )  
REVOCABLE LIVING TRUST )  
 )  
Plaintiffs, )  
 )  
v. ) Case No. 1:23CV00164  
 )  
TYSON FOODS, INC. )  
TYSON CHICKEN, INC. )  
TYSON SALES & )  
DISTRIBUTION, INC )  
 )  
MARK AVERY )  
 )  
KRISTI SANDERS )  
 )  
Defendants )

MOTION FOR EXTENSION OF TIME  
TO FILE MEMORANDUM IN OPPOSITION TO  
DEFENDANTS' MOTIONS TO DISMISS

COMES NOW Plaintiffs, by and through their attorney of record Russell D. Oliver, pursuant to FRCP 6(b) and for their motion for Extension of Time to File Memorandum in Opposition to Defendants' Motions to Dismiss states that good cause exists for granting Plaintiffs' an extension of time due to the following:

1. That the above-entitled cause of action was filed in the Circuit Court of Stoddard County, Missouri by Plaintiffs on August 22, 2023
2. That Defendants filed their Notice of Removal to this Court on September 22, 2023.
3. That Defendants thereafter filed three (3) separate Motions to Dismiss on September 29, 2023.
4. That Plaintiffs filed in this Court their Motion to Remand to State Court on October 6, 2023 and a Motion to Stay Proceedings pending resolution of the Motion to Remand on October 10, 2023. As of the filing of this motion, the Plaintiffs' Motion to Stay Proceedings has not been ruled upon by this Court.
5. That Plaintiffs' memorandum in opposition to the Defendants' three (3) Motions to Dismiss is due fourteen (14) from the filing of Defendants' Motions, which is October 13, 2023
6. That fairness requires that Plaintiffs be granted additional time to answer Defendants' Motions to Dismiss to facilitate time for the Court's consideration of Plaintiffs' Motion to Stay Proceedings.
7. That Plaintiffs are prejudiced in the absence of additional time to answer Defendants' Motions to Dismiss and a Stay Order as they can not amend their Petition (which was originally filed in state court), in response to any motion to dismiss, without potentially waiving their jurisdictional objections raised in their Motion to Remand. Resolution of the Motion to Remand prior to any briefing of the Motions to Dismiss is necessary for the parties to have a fair and even playing field in litigating the Motions to Dismiss if necessary.

WHEREFORE, Plaintiffs pray of this Court for its order granting Plaintiffs additional time to file their Memorandum in Opposition to Defendants' Motions to Dismiss to facilitate time for the Court's consideration of Plaintiffs' Motion to Stay Proceedings file herein.

Respectfully Submitted,

/S/ RUSSELL D. OLIVER  
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ATTORNEY FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I hereby certify that on October 11, 2023, I electronically filed the above and foregoing with the Clerk of Court using the CM/ECF system which sent notification to all parties entitled to service.

/s/ RUSSELL D. OLIVER  
Attorney for Plaintiffs